IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.258 OF 2007

WITH

CIVIL APPLICATION NO.535 OF 2007

Shri.Yashwant Vithoba Jadhav ...Appellant

Versus

Sou.Bhagirathi Yashwant Jadhav ...Respondent

.....

Mr.A.M.Kulkarni for Appellant.

None for Respondent.

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CORAM: A.M.KHANWILKAR, J.

JULY 11, 2007.

P.C.

1. Heard Counsel for the Appellant. Two contentions have been raised before this Court.

2. The first argument is that the Appellate Court had occasion to consider claim for enhancement of maintenance amount in the year 2001, when, after considering all aspects, resolved to enhance the maintenance amount in the sum of

Rs.500/- (Rupees Five Hundred) from the original amount of Rs.300/- (Rupees Three Hundred) which was fixed on 8th November 1993. It is submitted that there was no changed circumstance in favour of the Respondent wife for seeking further enhancement which has now been granted on 15th September 2006 to the extent of Rs.1500/- per month. It was argued that the Court below has overlooked the crucial fact that in fact, the Appellant has retired in 2003 and there is no regular source of income for the Appellant.

3. The second argument canvassed before this Court is that in terms of Section 18 and Section 20 of the Maintenance Act both the husband as well as the major son who incidentally is earning member in the present case, would be responsible to maintain the Respondent. In that case, the maintenance claim of the Respondent should be shared by both, as the Respondent is presently staying with the major son, who is earning.

4. I find no merits in either of these submissions. The first submission has been rightly

answered by the Court below by taking the view that the Appellant would be able to pay the enhanced amount of maintenance from the retiral benefits received by him as also from the income of agricultural land. The lower Court has also recorded a finding that amount of Rs.500/- which was fixed in 2001, was very paltry sum and unjust amount. For that reason, the same deserves to be enhanced to Rs.1500/- per month.

5. Taking overall view of the matter, it is not possible to accept the grievance of the Appellant that enhancement of maintenance amount payable by the Appellant to his wife (Respondent) from Rs.500/- to Rs.1500/- per month is unjust or excessive. Indeed, as per Section 20 of the Act the major son who is earning, will be also responsible to maintain his mother. In the present case, it is not in dispute that the Respondent is staying with the son and he is already discharging the responsibility by maintaining his mother. Thus understood, the son is already spending equivalent amount for maintenance of his mother as is now required to be paid by the Appellant to maintain

the Respondent wife.

6. No fault can be found with the view of the Court below. The additional circumstance pressed into service on behalf of the Appellant, in my opinion, is not sufficient to disturb the view expressed by the lower Court. No substantial question of law arises for consideration. Dismissed.

7. In view of the above order, Civil Application stands disposed of.

A.M.KHANWILKAR, J.